

DEC 02 2013

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY

DEPUTY

## 13cv2751

1 2005 in case No. 03cv0286 LAB (RBB) [ECF No. 43].) Petitioner appealed that  
 2 determination. On March 28, 2006, the Ninth Circuit Court of Appeals denied  
 3 Petitioner's request for certificate of appealability and dismissed the appeal. (See Order  
 4 in *Naddi v. Garcia*, No. 05-56104 (9th Cir. Mar. 23, 2006) [ECF No. 53].)

5 Petitioner is now seeking to challenge the same conviction he challenged in his  
 6 prior federal habeas petition. Unless a petitioner shows he or she has obtained an Order  
 7 from the appropriate court of appeals authorizing the district court to consider a  
 8 successive petition, the petition may not be filed in the district court. See 28 U.S.C. §  
 9 2244(b)(3)(A). Here, there is no indication the Ninth Circuit Court of Appeals has  
 10 granted Petitioner leave to file a successive petition.

### 11 CONCLUSION

12 Because there is no indication Petitioner has obtained permission from the Ninth  
 13 Circuit Court of Appeals to file a successive petition, this Court cannot consider his  
 14 Petition. Accordingly, the Court **DISMISSES** this action without prejudice to Petitioner  
 15 filing a petition in this court if he obtains the necessary order from the Ninth Circuit  
 16 Court of Appeals. For Petitioner's convenience, the Clerk of Court shall attach to this  
 17 Order a blank Ninth Circuit Application for Leave to File Second or Successive Petition.

18 **IT IS SO ORDERED.**

19  
 20 DATED: 12/2/13

21   
 22 William Q. Hayes  
 23 United States District Judge  
 24  
 25  
 26  
 27  
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1998). Naddi was retried and convicted in June 1999. See Order filed May 16, 2005 in case No. 03cv0286 LAB (RBB) [ECF No. 43].